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REMARKS

Claims 1-13, 38-39, 49-50 and 51-56 are pending in the present application. Claims 1, 38, 49 and 55 have been amended. Applicant reserves the right to file Divisional applications on the previously withdrawn and non-elected claims. Reconsideration of the claims is respectfully requested.

Claim 38 was objected to for an informality, which has been corrected.

Claims 1-13, 49 and 51-54 were rejected under 35 USC 103(a) as being unpatentable over Eyal (7,228,305) in view of Stumphauzer, II (US 2003/0014767). Claims 38 and 39 are rejected over Eyal, in view of Stumphauzer further in view of Luehrs (US 2003/0163811). Claims 50 and 56 were rejected over Eyal, in view of Stumphauzer further in view of Barrett (US 6,005,597). Claim 55 is rejected over Eyal, in view of Stumphauzer further in view of Durden (US 2004/0250272).

Claims 1 and 49 are drawn to an interactive entertainment system and method respectively for retrieving a preferred entertainment file from among a plurality of streaming files based on user rating information unique to each user and directing the entertainment file to a user output device that plays the streaming file. A user input device enables a user to provide real time feedback regarding the entertainment files to submit an updated user rating that is stored on the system database for retrieval during subsequent streaming.

Applicant does not agree that Eyal and Stumphauzer represent analogous art or that the respective teachings are compatible as suggested by the Examiner. Stumphauzer is directed to broadcast programming. A user created playlist is transferred to a receiver. The receiver scans the content of all of the channels and determines if any of the programming matches the selections on the playlist. If there is a match, the receiver tunes to that program. Eyal is directed to retrieving media content for a distributed network. Each user's network enabled device submits search criteria to a central server that selects at least one address from a database of network addresses using the search criteria. The server signals the selected address to the network enabled device, which automatically accesses the content at the address for playback. Eyal's distributed network allows many users to access a wide variety of different media content that is delivered at different times to the respective users. Contrary to the Examiner's assertion, reconfiguring Eyal to broadcast content simultaneously on multiple channels and use the search criteria to filter the broadcast content would greatly limit the variety of content to

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users. All of the users would be constrained to whatever content the provider decided to broadcast at a given time. This is clearly contrary to the teachings of Eyal.

Furthermore, Eyal's "rating module" receives ratings or votes from multiple users or terminals and aggregates those rating or votes into a value for the piece of media content. As described at col. 30, lines 52-59, the new rating is an averaged based formula. By comparison, Applicant's system as described in amended claims 1 and 49 stores user rating information that is "unique" to each user. User feedback on an entertainment file is submitted as an updated user rating that is stored for that user for subsequent retrieval. The updated rating merely replaces a previous rating; it is not an averaged base formula of many different users. Applicant submits that the rejection of claims 1 and 49 is traversed and respectfully requests that it be withdrawn.

Claims 38 and 55 have been amended to specifically recite that the user presses a blocker key on the input device to block the currently streaming entertainment file without specifying a different entertainment file and that the ratings are based on the user rating information. Support is found in Fig. 2 steps 401 and 421 and Fig. 5 steps 405 and 425. This precludes the use of a user input device to set a priori preferences that the receiver uses to block certain streaming entertainment files as in Durden and precludes the use of a user input device to change channels explicitly thereby effectively blocking the currently streaming file as in Luehrs. Claims 38 and 55 have also been amended to clearly tie the "rating" back to the "user rating information". In claim 38, this is done by ranking the files based on the user rating information. This precludes the system having an additional rating system where files can additional be chosen based on a classic moving rating system as in Durden. Applicant respectfully requests that the rejection of claims 38-39 and 55 as dependent from claim 1 be withdrawn and a notice of allowance issued.

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Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below listed telephone number if, in the opinion of the Examiner, such a telephone conference would expedite or aid the prosecution and examination of this application.

Should any fees be associated with this submission, please charge Deposit Account No.

50-0383.

Respectfully submitted,



Anthony J. Orler
Registration No. 41,232
Attorney for Applicants

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The DIRECTV Group, Inc.
CA/LA1/A109
P.O. Box 956
2230 E. Imperial Highway
El Segundo, CA 90245-0956
Phone: (310) 964-0735